

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CARNEGIE INSTITUTION OF
WASHINGTON and M7D CORPORATION,

Plaintiffs,

v.

Civil Action No. 1:20-cv-00200-JSR

FENIX DIAMONDS LLC,

Defendant.

**DECLARATION OF ANNE ELISE HEROLD LI IN SUPPORT OF FENIX’S MOTION
FOR ATTORNEY FEES AND OTHER NON-TAXABLE EXPENSES**

I, Anne Elise Herold Li, declare the following:

I am an attorney admitted before this Court and a Partner with the law firm of Crowell & Moring, LLP, counsel for Defendant Fenix Diamonds LLC (“Fenix”). I submit this declaration to place in record before the Court true and correct copies of exhibits cited in Fenix’s Motion for Attorney Fees and Other Non-Taxable Expenses.

1. Attached as Exhibit 1 is a true and correct copy of U.S. Patent No. 6,858,078 (“’078 patent”).
2. Attached as Exhibit 2 is a true and correct copy of U.S. Patent No. RE,189 (“’189 patent”).
3. Attached as Exhibit 3 is a true and correct copy of Plaintiffs Carnegie Institution of Washington and M7D Corporation’s (collectively, “Plaintiffs”) Unopposed Motion to Dismiss and Remand from the Federal Circuit, Case No. 21-2249, dated July 12, 2023.
4. Attached as Exhibit 4 is a true and correct copy of excerpts from the Highly Confidential Expert Report of John C. Jarosz, executed September 18, 2020.

5. Attached as Exhibit 5 is a true and correct copy of excerpts from the Highly Confidential Expert Report of Karen K. Gleason, Ph.D. Regarding Validity of U.S. Patent Nos. 6,858,078 and RE41,189, executed October 9, 2020.

6. Attached as Exhibit 6 is a true and correct copy of excerpts from a PowerPoint presentation titled "Lender Presentation," dated November 7, 2018, which was designated as Highly Confidential by Plaintiffs and is labeled with Bates Nos. CARN-FEN_00115436-63.

7. Attached as Exhibit 7 is a true and correct copy of excerpts from the Highly Confidential Expert Report of J. Michael Pinneo, Ph.D. Regarding Invalidity of U.S. Patent Nos. RE41,189 and 6,858,078, executed September 18, 2020.

8. Attached as Exhibit 8 is a true and correct copy of an excerpt from the transcript of the Markman Hearing held in the above-captioned case on April 24, 2020.

9. Attached as Exhibit 9 is a true and correct copy of the Highly Confidential Joint Affidavit of Bakulbhai Limbasiya and Chirag Limbasiya for Nouveau Diamonds LLP ("Nouveau"), notarized on June 20, 2020, and labeled with Bates Nos. NV958-977.

10. Attached as Exhibit 10 is a true and correct copy of a Highly Confidential letter from Max Snow to Plaintiffs' counsel dated June 14, 2020 with the subject line "Re: NV000709–NV000951" and excerpts from the accompanying production with Bates Nos. NV000932–NV000951.

11. Attached as Exhibit 11 is a true and correct copy of a Highly Confidential letter from Max Snow to Plaintiffs' counsel dated June 21, 2020 with the subject line "Re: NV956-1051."

12. Attached as Exhibit 12 is a true and correct copy of excerpts from the Highly Confidential deposition of Michael Capano, Ph.D., dated October 23, 2020.

13. Attached as Exhibit 13 is a true and correct copy of excerpts from the deposition of Karen K. Gleason, Ph.D., dated October 22, 2020, which were designated as Highly Confidential. Attached as Exhibit 14 is a true and correct copy of excerpts from the Highly Confidential Expert Report of Michael Capano, Ph.D. Regarding Infringement of U.S. Patent No. 6,858,078, executed September 18, 2020.

14. Attached as Exhibit 15 is a true and correct copy of a letter from Steven Sklar to Plaintiffs' counsel dated May 18, 2020.

15. Attached as Exhibit 16 is a true and correct copy of a letter from Max Snow to Plaintiffs' counsel dated August 26, 2020 with the subject line "Re: Nouveau Facility Inspection."

16. Attached as Exhibit 17 is a true and correct copy of an email from Sarah Fowler to Nouveau dated September 11, 2020.

17. Attached as Exhibit 18 is a true and correct copy of an email chain between Sarah Fowler and Upendra Patel, dated September 24, 2020.

18. Attached as exhibit 19 is a true and correct copy of the docket sheet from *Carnegie Institution of Washington et al. v. Pure Grown Diamonds, Inc.*, No. 20-189 (S.D.N.Y.).

19. Attached as Exhibit 20 is a true and correct copy of Fenix Diamonds, LLC's Response to Defendant's Motion to Dismiss and Remand from the Federal Circuit, Case No. 21-2249, dated October 7, 2023.

20. Attached as exhibit 21 is a true and correct copy of the docket sheet from *Carnegie Institution of Washington et al. v. Fenix Diamonds LLC*, No. 21-2249 (Fed Cir.).

21. Attached as Exhibit 22 is a true and correct copy of excerpts from the Non-Confidential Opening Brief of Appellants Carnegie Institution of Washington and M7D Corporation, filed July 6, 2022.

22. Attached as Exhibit 23 is a true and correct copy of an email from Terrence Wikberg to Steven Sklar dated August 28, 2020.

23. Attached as Exhibit 24 is a true and correct copy of excerpts from the deposition of Susanne Rechner, dated August 27 and October 19, 2020, which were designated as Highly Confidential by Plaintiffs.

24. Attached as Exhibit 25 is a true and correct copy of an email chain between Matthew Moffa and Cecilia Sanabria, dated August 5, 2020.

25. Attached as Exhibit 26 is a true and correct copy of an email chain between Matthew Moffa and James Mandlik, dated July 22, 2020.

26. Attached as Exhibit 27 is a true and correct copy of an email chain between Karen Songer and Gloria Brienza, dated May 11, 2010 which was designated as Highly Confidential by Plaintiffs and is labeled with Bates Nos. CARN-FEN_00199501-05.

27. Attached as Exhibit 28 is a true and correct copy of an email from Karen Huang to Max Snow, dated September 17, 2020.

28. Attached as Exhibit 29 is a true and correct copy of excerpts from the deposition of Yogesh K. Vohra, dated July 31, 2020.

29. Attached as Exhibit 30 is a true and correct copy of an email from Keelin Bielski to Matthew Moffa, dated September 22, 2020.

30. Attached as Exhibit 31 is a true and correct copy of a Highly Confidential letter from Nicole E. Kopinski to Plaintiffs dated June 22, 2020.

31. Attached as Exhibit 32 is a true and correct copy of a Highly Confidential email chain between Kevin Patariu and Max Snow, dated between July 21-23, 2020, which contains Highly Confidential Information.

32. Attached as Exhibit 33 is a true and correct copy of an email chain between Terrence Wikberg and Max Snow, dated July 1, 2020.

September 21, 2023



Anne E. Li